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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/541,500	07/07/2005	Yasutaka Ogasawara	SON-3141	2009
7590 Rader Fishman & Grauer Suite 501 1233 20th Street NW Washington, DC 20036			EXAMINER LL GUANG W	
			ART UNIT 2446	PAPER NUMBER
			MAIL DATE 04/06/2009	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/541,500

Applicant(s)

OGASAWARA ET AL.

Examiner

GUANG LI

Art Unit

2446

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 02 February 2009 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1, 3-4, 6-8, 10-11, 13-14, 16-17, 19-21, 23 and 25-39.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: (See Continuation Sheet).
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Jeffrey Pwu/
Supervisory Patent Examiner, Art Unit 2446

Applicant argues following limitations:

- A) Linden fails to even basically address in any way controlling a connection between the respective communication devices so that the digital content can be provided from one communication device to the other.
- B) the "recommendation" itself is the digital content. However, in this instance, the recommendation is merely posted to the server, and the server later conveys the recommendation to another user browsing available content.
- C) In no way does the recommendation of the product constitute "wherein the choices-window information includes information indicative of whether the communication device that is the information provider can currently provide the offered digital content in real time," as claimed by Applicant.
- D) Even under the strained interpretation of this reference that appears to have been maintained by the Examiner in the Action, there is no reasonable instance of selection of the desired content in a choices window as claimed.
- E) There is no mention of the establishment of connections between separate communications devices of information providers and information recipients wherein the content is then provided from the information provider communication device to the communication device that is to receive the digital content.

In response to argument A, Examiner respectfully disagrees Linden fails to even address in any way controlling a connection between respective communication devices. On the contrary, Linden teaches recommended information will be shown to the users and when the user selected the recommended music title or audio title will send the selected items to the user. This is clearly teaches the controlling a connection flow information based on user input.

In response to argument B, Examiner respectfully disagrees Applicant argument that Linden teaches the recommendation of the offered digital content (Linden: col. 4 lines 40-45), which is a desired piece of digital content (Music title or Video Title). Examiner agreed with applicant that Linden does not teach the actual digital content been sent. However, in the claim language claimed received the desired piece of the offered digital content between the information receiver and the provider. In addition, Angel also teaches when a consumer accesses a content provider, the content provider transmits an electronic document to the consumer. Embedded within the electronic document is an advertisement request. When the consumer's computer displays the electronic document, the embedded advertisement request directs the consumer computer to communicate with an advertisement provider. This is also teaches offered the digital content between the information user and information provider.

In response to argument C, Examiner respectfully disagrees applicant argument that Linden recommendation of the product constitute offered digital content in real time. Linden teaches recommended information will be shown to the users and when the user selected the recommended music title or audio title will send the selected items to the users "the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category" see Linden: col. 15 lines 36-40. In another word, when the user selected the recommended music title or audio title the selected items information will send to the user. Although only the information contents send to the user, it would be obvious to one ordinary skill in the art to combine Linden with Angles to provide actual content instead of information contents to the users such as downloading a song after purchased. In addition, Angles teaches when a consumer accesses a content provider, the content provider transmits an electronic document to the consumer. This is clearly teaches the choices window information that are offered digital content in real time.

In response to argument D, Examiner respectfully disagrees Applicant on this argument. Linden teaches when the user selected the recommended music title or audio title will send the selected items to the users "the list is filtered by deleting any items that (1) have already been purchased or rated by the user, (2) have a negative score, or (3) do not fall within the designated product group (e.g., books) or category." The instant selection will be added to the user and item will be purchased. In addition, Angel also teaches the advertisement provider computers 18 can include, a server within a computer network, a provider of video delivery systems, audio-visual media server, a television programming provider, a computer connected to a telephone switching network, a computer server in a wireless communication center and the like. In another word, When user select the audio/video media in the internet provider, the digital content send from media server to the user device.

In response to argument E, Examiner respectfully agree with Applicant that Linden does not provide a separate communication device of information providers and information recipients wherein the content is the provided from the former communication device to the latter communication device. However, the separate communication devices of information was not disclose in the claim 1. In claim 1, only disclose the maintaining registration information on more than one piece of digital content available from those of the communication devices that are registered as an information provider. The communication devices is a separate device was not claimed in the claim language. Although Linden does not provide the separate communication between the information provider and the information recipients, but Angles teaches plurality of content provider computer provider 14 provide connection to the plurality of consumer computer 12 (see Angles: Fig. 2 and 4). In addition, establishment of connections between separate communication devices of information communication device to the latter communication device is not in the claim language.